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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,175

10/28/2003

Satoshi Ueda

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EXAMINER

ZHENG, JACKY X

ART UNIT

PAPER NUMBER

2625

MAIL DATE

DELIVERY MODE

02/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/694,175</p>	<p>Applicant(s) UEDA, SATOSHI</p>	
	<p>Examiner JACKY X. ZHENG</p>	<p>Art Unit 2625</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires five months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,5,6 and 10.
Claim(s) withdrawn from consideration: 2-4, 7-9 and 11-15.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Twyler L. Haskins/
Supervisory Patent Examiner, Art Unit 2625

/J. X. Z./
Examiner, Art Unit 2625

Continuation of 3. NOTE:

1. This is in response to applicant's amendments and remarks filed after Final under 37 CFR 1.116 on February 24, 2009, and the claim status at the finality dated September 18, 2008 as:
2. **Claims 2-4, 7-9 and 11-15** have been withdrawn from consideration.
3. **Claims 1, 5-6 and 10** have been finally rejected.
4. The argument presented by Applicant with respect to the outstanding issues set forth previously in the finality are respectfully found to be not persuasive. As various issues relating to the claim rejections set forth in the office action mailed on September 18, 2008 have not yet been entirely resolved, and the newly-added and/or amended claim limitations in the pending claims provided in the amendment/remarks filed on February 24, 2009 (such as in independent claims 1 and 6) will require performing of further prior art searches and/or at least additional consideration under 35 USC 112, first and/or second paragraph(s). Examiner therefore respectfully submits that the presented amendments to the claims with remarks, will require performing of further searches and considerations, and/or have not yet placing the application in condition for allowance, and/or are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, at least for the reasons of various of remaining issues relating to rejection(s) and/or objection(s) have not believed to be resolved yet, therefore, the grounds of rejection are maintained for at least the reasons of record and/or the ones supplemented and/or reiterated below with response to Applicant's presented argument filed on February 18, 2009 under 37 CFR 1.116.
5. With regard to Applicant's remarks pg. 7, second paragraph, Applicant alleged previously-indicated-withdrawn claims 11-15 should be considered on the merits. Arguments are fully and carefully consideration, however respectfully found to be not persuasive. As previously stated and indicated by Applicant, in "Response to Election of Species" dated June 12, 2008, Applicant clearly stated specifically in second paragraph of pg. 1, quotes "In response to the Examiner's requirement, Applicant elects Species VI, page 4, lines 4 to 13, for examination on which claims 5 and 10 are readable". In accordance with Applicant's statement of Claims 5 and 10 are readable on the elected Species (Species VI), subsequently Claims 5, 10 and along with their independent claims 1 and 6 were considered at finality. Therefore, for at least the reasons set forth above, examination was merely in accordance with Applicant's election of readable species; as well believe to be proper for at least the reasons of record. Claims 11-15 (along with claims 2-4 and 7-9) remained withdrawn as indicated by Applicant with status identifier - "WITHDRAWN".

/Jacky X. Zheng/
Examiner, Art Unit 2625
February 24, 2009